

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2011-006324-001 DT
CR2011-007292-001 DT
CR2011-103564-001 DT
CR2011-111605-001 DT
CR2006-110051-001 DT

11/08/2011

HONORABLE MICHAEL D. HINTZE

CLERK OF THE COURT
P. M. Espinoza
Deputy

STATE OF ARIZONA

SERENA COURTNEY POKRASS

v.

LEROY MATTHEW SMITH (001)
DOB: 12/31/1980
Booking No.: P746200

JUSTIN BERESKY

CORRECTIONAL HEALTH SERVICES
CORRECTIONAL HEALTH SERVICES-
RESTORE TO COMPETENCY
COURT FORENSIC SERVICES UNIT
D & C MATERIALS-CSC
MAGELLAN HEALTH SERVICES
VICTIM SERVICES DIV-CA-CCC

DEFENDANT INCOMPETENT - A.R.S. § 13-4510 (C) -
SUBMISSION ORDER FOR RESTORATION TREATMENT

9:12 a.m.

Courtroom CCB-1303

State's Attorney:	Juli Warzynski
Defendant's Attorney:	Melissa Zabor
Defendant:	Present

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A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

This is the time set for the Initial Rule 11 Competency Hearing.

There is a written stipulation for submission to the Court of the matter of Defendant's competency based on the written reports by Dr. Bennette Dawson dated 11/01/2011 and Dr. John Shaughnessy dated 11/02/2011.

The report(s) having been considered,

THE COURT FINDS the Defendant is unable to understand the nature of the proceedings and/or is unable to assist counsel in Defendant's defense, and is therefore criminally incompetent pursuant to A.R.S. § 13-4510.

THE COURT FURTHER FINDS that there is no clear and convincing evidence that the Defendant will not be restored to competency within 15 months pursuant to A.R.S. § 13-4510(C).

THE COURT FURTHER FINDS that the Defendant is incompetent to refuse treatment and should be subject to involuntary treatment pursuant to A.R.S. §§ 13-4511 and 13-4512(B).

THE COURT FURTHER FINDS that confinement is necessary for treatment and/or the Defendant is a threat to public safety.

IT IS ORDERED committing the Defendant to the Maricopa County Correctional Health Services Restoration Program to receive treatment necessary to restore the Defendant's competency. Furthermore, said facility/program shall submit to the Court a written status report on 12/27/11 stating the Defendant's progress and prognosis, unless prior to that date the treatment facility concludes that competency has been restored or that there is no substantial probability that the Defendant will be restored within 21 months after the date of the original finding of incompetency. The written report shall reflect the estimated time period for restoration and any recommendations for treatment modifications if competency is restored. The report shall state what limitations are imposed by medications used to restore competency. The treatment facility shall submit its written report to the Court's Forensic Services Administrator who shall provide a copy to defense counsel. Defense counsel shall provide a copy to the prosecutor pursuant to Rule 11.4(a), Arizona Rules of Criminal Procedure.

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IT IS FURTHER ORDERED setting a nonevidentiary Status Hearing on **January 3, 2012 at 9:00 a.m.** before Commissioner Hintze. If the parties wish an evidentiary hearing, they are to contact the assigned Judge/Judge Pro Tem and request an evidentiary hearing.

IT IS FURTHER ORDERED that copies of the experts' reports and police reports are to be furnished by the Maricopa County Attorney's office to the Court's Forensic Services Administrator who will cause them to be sent to the treatment provider to be used by the treatment provider in diagnosis and treatment and not to be released or copied without further Court order.

IT IS FURTHER ORDERED that within three (3) judicial days of receipt of a request by the RTC for specifically identified medical and/or mental health records (records), counsel for the Defendant shall request said records and, where necessary, a court order to obtain said records, and shall contemporaneously provide the RTC with notice of said request(s).

IT IS FURTHER ORDERED that within five (5) judicial days of receipt of any records, counsel for the Defendant shall provide a copy of said records to the RTC or shall advise the RTC of any special circumstances that may require additional time, not to exceed five (5) days, for disclosure. Counsel for the Defendant may make redactions where disclosure would be prejudicial to the Defendant and not relevant to the restoration process. In the event of a dispute over redactions, upon request, the Court will conduct an in camera inspection in order to resolve such dispute.

IT IS FURTHER ORDERED that the original report(s) of the mental health expert(s) shall be sealed and maintained in a confidential manner by the Clerk of the Superior Court; said report(s) are not to be disclosed to anyone except as provided for in A.R.S. § 36-509.

IT IS FURTHER ORDERED revoking previous custody/release orders. The Defendant shall be held without bond for Rule 11 purposes pending further order of the Court.

ISSUED: Order of Confinement.

The Court having reviewed this matter determines it is necessary to know whether this Defendant is receiving any behavioral health services. Accordingly,

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IT IS ORDERED that Magellan Health Services disclose whether this Defendant is enrolled in Magellan Health Services and provide additional information as requested herein.

The Court Liaison from Magellan Health Services informs the Court that the Defendant is enrolled with Magellan Health Services/Choices Network.

SEALED AND FILED: Medical report(s) by the expert(s).

9:14 a.m. Matter concludes.

/ s / HONORABLE MICHAEL D. HINTZE

JUDICIAL OFFICER OF THE SUPERIOR COURT